



MICHAEL R. MCDONALD
Director

Gibbons P.C.
One Gateway Center
Newark, New Jersey 07102-5310
Direct: (973) 596-4827 Fax: (973) 639-6295
mmcdonald@gibbonslaw.com

August 23, 2013

VIA ECF

Hon. Cathy L. Waldor, U.S.M.J.
United States District Court
for the District of New Jersey
King Fed. Bldg. & U.S. Courthouse
50 Walnut St., P.O. Box 999
Newark, NJ 07101-0999

Re: *Hodges v. The Vitamin Shoppe Inc.*
Civil Action No. 13-cv-03381 (SRC) (CLW)

Dear Judge Waldor:

This firm represents Defendant, The Vitamin Shoppe Inc., in the above-referenced matter. Your Honor has scheduled a Rule 16 conference on September 3, 2013 at 12:00 p.m. I write to alert the Court that Defendants filed a Notice of Motion to Dismiss For Lack of Standing Pursuant to Federal Rule of Civil Procedure 12(b)(1) or, In the Alternative, For Failure to State A Claim Pursuant to Federal Rule of Civil Procedure 12(b)(6). *See* ECF No. 17. Inasmuch as the motion seeks dismissal of the Complaint in its entirety, both for lack of standing and failure to state a claim, we respectfully request that the Rule 16 Conference be adjourned until the motion is resolved. Plaintiff's counsel declined to consent to this adjournment.

Please do not hesitate to have the Court's staff contact me with any questions regarding the above or if I may be of any service to the Court.

Respectfully submitted,

s/ Michael R. McDonald

Michael R. McDonald

cc: Honorable Stanley L. Chesler, U.S.D.J. (via regular mail)
Scott Alan George, Esq. (via electronic mail)
Jonathan Shub, Esq. (via electronic mail)
Nick Suci III, Esq. (via electronic mail)
Alyson Oliver, Esq. (via electronic mail)
Jennifer Marino Thibodaux, Esq. (via electronic mail)